IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16033 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIVISIONAL CONTROLLER,GUJARAT STATE ROAD TRANSPORT CORPN. - Petitioner(s)

Versus

NATVARLAL LALLUBHAI PAHIYAR - Respondent(s)

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Appearance :

MS MONALI H BHATT for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/09/2005

ORAL JUDGMENT

Though served no one appears for the respondent.

2. In the present petition, the petitioner, Gujarat

State Road Transport Corporation, has challenged the legality of the award dated 29th May 2004 passed by the Industrial Tribunal, Vadodara. The respondent-workman was employed as Conductor by the ST Corporation. Finding that on 26th October 2005, the respondent had collected fare from passengers but not issued tickets, a chargesheet came to be issued against him. Pursuant to the departmental inquiry conducted, the petitioner imposed punishment of stoppage of increment for a period of one year with future effect. The workman challenged the punishment before the Industrial Tribunal. The Industrial Tribunal observed that it cannot be concluded that there was any dishonest intention on the part of the workman in not issuing tickets. It was observed that since the bus was packed on account of overcrowding, it was possible that the passengers may not have asked for tickets. In the result, the Industrial Tribunal was pleased to set aside the penalty order dated 20th January 1996, however, provided that penalty of withholding of two increments without future effect will be imposed on the workman.

3. The Industrial Tribunal ought not to have interfered with the factual finding arrived at during the course of

inquiry without sufficient rebuttal evidence. The charges were held to have been proved during the course of inquiry on the material on record. Such conclusions could not have been interfered with on the basis of assumptions. The respondent was proved to have collected fare but not issued tickets to the passengers. Imposition of punishment of withholding of one increment with future effect by the petitioner could not have been termed as excessive.

4. In the result, the award of the Industrial Tribunal is required to be and is hereby set aside. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)